

REMARKS

Status of the claims

Upon entry of these remarks, claims 1, 17 and 26-250 will be pending in this application. Claims 26-250 have been provisionally elected, *with traverse*.

New claims 26-250, which correspond to provisionally elected Group III (cancelled claims 19 and 25) have been added to more particularly and distinctly point out and distinctly claim the subject matter Applicants regard as the invention. Support for the newly added claims is found throughout the specification as filed, and no new matter had been introduced.

More particularly, support for new claims directed to antibodies of the invention can be found, for example, on pages 228-310. Support for new claims directed to monoclonal and polyclonal antibodies and Fab fragments of antibodies can be found, for example, on pages 228-229. Support for new claims directed to Labeled antibodies, or antibodies conjugated to a therapeutic or cytotoxic agent can be found, for example, on pages 252-254. Support for new claims directed to methods detecting Neutrokin-alpha proteins can be found, for example, on pages 272-274. Thus, no new matter has been added by way of amendment.

Provisional Election with Traverse

The Examiner has required restriction of the claims into three groups - Group I drawn to a nucleic acid molecule encoding Neutrokin-alpha protein, a vector, a host cell and a method of making the protein represented by claims 1-16; Group II drawn to a Neutrokin-alpha polypeptide represented by claim 17, 18, 20, and 22; and Group III represented by claims 19 and 25 drawn to an antibody to Neutrokin-alpha.

In accordance with 37 C.F.R. § 1.143, Applicants hereby provisionally elect Group III (cancelled claims 19 and 25, new claims 26-250), *with traverse*. Applicants reserve the right to file one or more divisional applications directed to the non-elected inventions should the restriction requirement be made final.

Applicants respectfully traverse the restriction requirement as it applies to Groups I, II, and III. Even assuming, for the sake of argument, that more than one invention appears in an application, restriction remains improper unless it can be shown that the

search and examination of each group would entail a "serious burden" (*see* M.P.E.P. § 803). In the present situation, no such showing has been made. Indeed, no arguments have been made explaining why it would impose an undue burden to examine the polynucleotide, polypeptide, and antibody claims together.

Applicants submit that a search of the polynucleotide claims would clearly provide useful information for the polypeptide claims. For example, in many if not most publications, where a published nucleotide sequence contains an open reading frame, the authors also include, as a matter of routine, the deduced amino acid sequence. Thus, the searches for polynucleotides and polypeptides commonly overlap. Even in the relatively uncommon case where a publication contains a nucleotide sequence which is not accompanied by the corresponding deduced amino acid sequence, it is routine for one to determine the corresponding amino acid sequence. Moreover, a search for Neutrokin- α polypeptides would include, also as a matter of routine, a search for antibodies specific for Neutrokin- α . Thus, the search and examination of a polynucleotide, corresponding deduced polypeptide sequences, and antibodies specific for the corresponding deduced polypeptide sequences would not entail a serious burden.

Thus, in view of M.P.E.P. § 803, all of the claims should be searched and examined in the subject application. Applicants respectfully request that the above-made remarks be entered and made of record in the file history of the instant application.

CONCLUSION

Applicants respectfully request that the remarks above be entered and made of record in the file history of the instant application.

Respectfully submitted,

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